

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

SAMMEON LEWIS,

Plaintiff(s),

v.

JULIE KRAIG,

Defendant(s).

Case No. 2:24-cv-00158-APG-NJK

**ORDER**

The Court has a duty to ensure that it has subject matter jurisdiction over the dispute before it, an issue it may raise at any time during the proceedings. *See, e.g.*, Fed. R. Civ. P. 12(h)(3). Federal courts are courts of limited jurisdiction and possess only that power authorized by the Constitution and statute. *See Rasul v. Bush*, 542 U.S. 466, 489 (2004). “A federal court is presumed to lack jurisdiction in a particular case unless the contrary affirmatively appears.” *Stock West, Inc. v. Confederated Tribes of the Colville Reservation*, 873 F.2d 1221, 1225 (9th Cir. 1989). “The party asserting federal jurisdiction bears the burden of proving that the case is properly in federal court.” *McCauley v. Ford Motor Co.*, 264 F.3d 952, 957 (9th Cir. 2001) (*citing McNutt v. General Motors Acceptance Corp.*, 298 U.S. 178, 189 (1936)).

Plaintiff’s complaint does not establish subject matter jurisdiction. The complaint fails to identify the factual allegations on which suit has been brought or the relief being sought. *But see* Fed. R. Civ. P. 8(a). The complaint indicates that it is brought based on a federal question, but the only claim alleged is for deprivation of rights in violation of 18 U.S.C. § 242, *see* Docket No. 1-1 at 3, 4, which is a criminal statute that does not provide a private right of action, *e.g.*, *Shahin v. Darling*, 606 F. Supp. 2d 525, 538 (D. Del. 2009).

Given the failure to establish subject matter jurisdiction (or comply with Rule 8), Plaintiff’s complaint is **DISMISSED** with leave to amend. Plaintiff will have until **February 22, 2024**, to

1 file an amended complaint, if the noted deficiencies can be corrected. If Plaintiff chooses to amend  
2 the complaint, Plaintiff is informed that the Court cannot refer to a prior pleading (i.e., the original  
3 complaint) in order to make the amended complaint complete. This is because, as a general rule,  
4 an amended complaint supersedes the original complaint. Local Rule 15-1(a) requires that an  
5 amended complaint be complete in itself without reference to any prior pleading. Once a plaintiff  
6 files an amended complaint, the original complaint no longer serves any function in the case.  
7 Therefore, in an amended complaint, as in an original complaint, each claim and the involvement  
8 of each Defendant must be sufficiently alleged.

9 **Failure to comply with this order may result in dismissal of this case.<sup>1</sup>**

10 IT IS SO ORDERED.

11 Dated: January 25, 2024

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15 Nancy J. Koppe  
16 United States Magistrate Judge  
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28 <sup>1</sup> Because it is not clear that subject matter exists, the Court defers ruling on the application  
to proceed *in forma pauperis*.